REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 1, 4-6, and 9-13 remain in this application as amended herein, claims 2-3 and 7-8 are cancelled, and claims 14-18 are added. Accordingly, claims 1, 4-6, and 9-18 are submitted for the Examiner's reconsideration.

In the Office Action, claims 1, 4-6 and 9-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ro (U.S. Patent Application Publication No. 2002/0150123) in view of Kim (U.S. Patent No. 5,859,846). Applicants submit that the claims are patentably distinguishable over the relied on sections of the references.

Independent claims 1, 6, and 10 have been amended to more clearly show the differences between the claimed features and the relied on art. No new matter has been added by these changes. Support for these changes is found at, e.g., pages 7-9 and 13-14 of the specification.

As amended herein, claim 1 recites:

> multiplexing means for multiplexing the encoded data stored in the storage means, for transmitting the multiplexed data to a predetermined receiving apparatus through a network, and for *generating a multiplexing-completion signal that includes information identifying the encoded data that was multiplexed by the multiplexing means*[.]

(Emphasis added.) Neither the relied on sections of Ro nor the relied on sections of Kim disclose or suggest generating *a multiplexing-completion signal that includes information identifying encoded data that was multiplexed* by a multiplexing means.

Amended claim 1 also calls for:

> in which the encoding means *calculates based on the multiplexing-completion signal an area occupied by the encoded data in the storage means*, releases the area occupied by the encoded data, and *controls a bit rate of the encoding of further data inputted by the*

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input means based on the area that was occupied by the encoded data.

(Emphasis added.)   Neither the relied on sections of Ro nor the relied on sections of Kim disclose or suggest calculating *based on a multiplexing-completion signal* (*that includes information identifying encoded data that was multiplexed*) *an area occupied by encoded data* in a storage means.   Moreover, neither the relied on sections of Ro nor the relied on sections of Kim disclose or suggest *controlling a bit rate of encoding* of further inputted data *based on an area that was occupied by encoded data*.

It follows, for at least these reasons, that neither the relied on sections of Ro nor the relied on sections of Kim, whether taken alone or in combination, disclose or suggest the combination set out in claim 1.   Claim 1 is therefore patentably distinct and unobvious over the relied on sections of the references.

Independent claims 6 and 10 each call for features similar to those set out in the above excerpt of claim 1. Claims 6 and 10 are therefore each patentably distinct and unobvious over the relied on sections of Ro and Kim at least for the same reasons.

Claims 4 and 5 depend from claim 1, and claim 9 depends from claim 6.   Therefore, each of these claims is distinguishable over the relied on art for at least the same reasons as the claim from which it depends.

Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

Claims 11-13 were objected to as being dependent upon a rejected base claim but were indicated as being allowable if rewritten in independent form.   Claims 11-13 have each been rewritten in independent form.

Applicants therefore submit that each of claims 11-13 is in condition for allowance.

New claims 14-15 depend from claim 1, new claims 16-17 depend from claim 6, and new claims 18-19 depend from claim 10. Therefore, each of these claims is distinguishable over the relied on art for at least the same reasons. New claims 14-18 recite features similar to that previously recited in cancelled claims 2-3 and 7-8 and are similarly supported.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 14, 2010   Respectfully submitted,

                                      By

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